

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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Aleksandra Berkovich

Plaintiff,

Index No: 2:19-cv-1030

-against-

Demand for Trial by Jury

Experian Information Solutions, Inc.,
Equifax Information Services, LLC,
Mercedes-Benz Financial Services USA LLC
d/b/a MB Financial Service

Defendant(s).

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COMPLAINT

Plaintiff Aleksandra Berkovich ("Plaintiff"), by and through her attorneys, and as for her Complaint against Defendant Experian Information Solutions, Inc. ("Experian"), Defendant Equifax Information Services, LLC ("Equifax"), and Defendant Mercedes- Benz Financial Services USA LLC d/b/a MB Financial Service ("MB Financial"), respectfully sets forth, complains, and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1337, as well as 15 U.S.C. § 1681p *et seq.*

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b)(2), being that the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.
3. Plaintiff brings this action for damages arising from the Defendant's violations of 15 U.S.C. § 1681 *et seq.*, commonly known as the Fair Credit Reporting Act ("FCRA").

PARTIES

4. Plaintiff is a resident of the State of New Jersey, County of Bergen, residing at 9 Somerset Lane #119, Edgewater, NJ, 07020.
5. At all times material hereto, Plaintiff was a "consumer" as said term is defined under 15 U.S.C. § 1681a(c).
6. Defendant Experian Information Solutions, Inc. is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f) and conducts substantial and regular business activities in this judicial district. Defendant Experian is a Ohio corporation registered to do business in the State of New Jersey.
7. At all times material here to Experian is a consumer reporting agency regularly engaged in the business of assembling, evaluating and disbursing information concerning consumers for the purpose of furnishing consumer reports, as said term is defined under 15 U.S.C. § 1681(d) to third parties.
8. At all times material hereto, Experian disbursed such consumer reports to third parties under a contract for monetary compensation.
9. Defendant Equifax Information Services, LLC is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f) and conducts substantial and regular business activities in this

judicial district. Defendant Equifax is a Georgia corporation registered to do business in the State of New Jersey.

10. At all times material here to Equifax is a consumer reporting agency regularly engaged in the business of assembling, evaluating and disbursing information concerning consumers for the purpose of furnishing consumer reports, as said term is defined under 15 U.S.C. § 1681(d) to third parties.
11. At all times material hereto, Equifax disbursed such consumer reports to third parties under a contract for monetary compensation.
12. Defendant Mercedes-Benz Financial Services USA LLC is a person who furnishes information to consumer reporting agencies under 15 U.S.C. § 1681s-2 with an address for service at c/o CT Corporation System at 111 8th avenue, New York, NY, 10011.

FACTUAL ALLEGATIONS

13. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

Equifax Dispute and Violation

14. On information and belief, on a date better known to Defendant Equifax, Equifax prepared and issued credit reports concerning the Plaintiff that included inaccurate information relating to her MB Financial account.
15. The inaccurate information furnished by Defendant MB Financial and published by Defendant Equifax is inaccurate for multiple reasons, most importantly the incorrect balance.

16. Defendants have been reporting this inaccurate information through the issuance of false and inaccurate credit information and consumer reports that they have disseminated to various persons and credit grantors, both known and unknown.
17. Plaintiff notified Equifax that she disputed the accuracy of the information Equifax was reporting, on or around August 13, 2018 specifically stating in a letter that she was disputing the incorrect balance and included a letter from Defendant MB Financial stating that the account was settled in full.
18. It is believed and therefore averred that Defendant Equifax notified Defendant MB Financial of Plaintiff's dispute.
19. Upon receipt of the dispute of the account from the Plaintiff by Equifax, MB Financial failed to conduct a reasonable investigation and continued to report false and inaccurate adverse information on the consumer report of the Plaintiff with respect to the disputed accounts, including continuing to report the account as a current repossession with an incorrect balance.
20. Furthermore, MB Financial failed to mark the account as disputed despite receiving the dispute letter from Plaintiff.
21. Despite the dispute by the Plaintiff that the information on her consumer report was inaccurate with respect to the dispute account, Equifax did not evaluate or consider any of the information, claims, or evidence of the Plaintiff and did not make an attempt to substantially reasonably verify that the derogatory information concerning the disputed account was inaccurate.
22. Notwithstanding Plaintiff's efforts, Defendant Equifax sent Plaintiff correspondence indicating its intent to continue publishing the inaccurate information and Defendants

continued to publish and disseminate such inaccurate information to other third parties, persons, entities and credit grantors.

23. As of the date of the filing of this Complaint, Defendant MB Financial continues to furnish credit data which is inaccurate and materially misleading, and Defendant Equifax's reporting of the above-referenced trade line continues to be inaccurate and materially misleading.
24. Defendants' erroneous reporting continues to affect Plaintiff's creditworthiness and credit score.
25. As a result of Defendants' conduct, Plaintiff has suffered a decreased credit score as a result of the inaccurate information on Plaintiff's credit file.

Experian Dispute and Violation

26. On information and belief, on a date better known to Defendant Experian, Experian prepared and issued credit reports concerning the Plaintiff that included inaccurate information relating to her MB Financial account.
27. The inaccurate information furnished by Defendant MB Financial and published by Defendant Experian is inaccurate for multiple reasons, including an incorrect balance, failure to list the correct status and incorrect late payments.
28. Defendants have been reporting this inaccurate information through the issuance of false and inaccurate credit information and consumer reports that they have disseminated to various persons and credit grantors, both known and unknown.
29. Plaintiff notified Experian on a phone call that she disputed the accuracy of the information Experian was reporting stating there was no balance owed, on or around August 13, 2018.

30. It is believed and therefore averred that Defendant Experian notified Defendant MB Financial of Plaintiff's dispute.
31. Upon receipt of the dispute of the account from the Plaintiff by Experian, MB Financial failed to conduct a reasonable investigation and continued to report false and inaccurate adverse information on the consumer report of the Plaintiff with respect to the disputed accounts, including adjusting the balance to another incorrect balance.
32. Furthermore, MB Financial failed to mark the account as disputed despite receiving the dispute letter from Plaintiff.
33. Despite the dispute by the Plaintiff that the information on her consumer report was inaccurate with respect to the dispute account, Experian did not evaluate or consider any of the information, claims, or evidence of the Plaintiff and did not make an attempt to substantially reasonably verify that the derogatory information concerning the disputed account was inaccurate.
34. Notwithstanding Plaintiff's efforts, Defendant Experian sent Plaintiff correspondence indicating its intent to continue publishing the inaccurate information and Defendants continued to publish and disseminate such inaccurate information to other third parties, persons, entities and credit grantors.
35. As of the date of the filing of this Complaint, Defendant MB Financial continues to furnish credit data which is inaccurate and materially misleading, and Defendant Experian's reporting of the above-referenced trade line continues to be inaccurate and materially misleading.
36. Defendants' erroneous reporting continues to affect Plaintiff's creditworthiness and credit score.

37. As a result of Defendants' conduct, Plaintiff has suffered a decreased credit score as a result of the inaccurate information on Plaintiff's credit file.

FIRST CAUSE OF ACTION

(Willful Violation of the FCRA as to Experian)

38. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

39. This is an action for willful violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*,

40. Experian violated 15 U.S.C. § 1601(e) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit report and credit files that Experian maintained concerning the Plaintiff.

41. Experian has willfully and recklessly failed to comply with the Act. The failure of Experian to comply with the Act include but are not necessarily limited to the following:

- a) The failure to follow reasonable procedures to assure the maximum possible accuracy of the information reported;
- b) The failure to correct erroneous personal information regarding the Plaintiff after a reasonable request by the Plaintiff;
- c) The failure to remove and/or correct the inaccuracy and derogatory credit information after a reasonable request by the Plaintiff;
- d) The failure to promptly and adequately investigate information which Defendant Experian had notice was inaccurate;

- e) The continual placement of inaccurate information into the credit report of the Plaintiff after being advised by the Plaintiff that the information was inaccurate;
- f) The failure to note in the credit report that the Plaintiff disputed the accuracy of the information;
- g) The failure to promptly delete information that was found to be inaccurate, or could not be verified, or that the source of information had advised Experian to delete;
- h) The failure to take adequate steps to verify information Experian had reason to believe was inaccurate before including it in the credit report of the consumer.

42. As a result of the conduct, action and inaction of Experian, the Plaintiff suffered damage by loss of credit, loss of ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denial.

43. The conduct, action and inaction of Experian was willful rendering Experian liable for actual, statutory and punitive damages in an amount to be determined by a Judge/ and or Jury pursuant to 15 U.S.C. § 1681(n).

44. The Plaintiff is entitled to recover reasonable costs and attorney's fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681(n).

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant, Experian, for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

SECOND CAUSE OF ACTION

(Negligent Violation of the FCRA as to Experian)

45. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

46. This is an action for negligent violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*,

47. Experian violated 15 U.S.C. § 1681i(a) by failing to delete inaccurate information from the credit file of the Plaintiff after receiving actual notice of such inaccuracies and conducting reinvestigation and by failing to maintain reasonable procedures with which to verify the disputed information in the credit file of the Plaintiff.

48. Experian has negligently failed to comply with the Act. The failure of Experian to comply with the Act include but are not necessarily limited to the following:

- a) The failure to follow reasonable procedures to assure the maximum possible accuracy of the information reported;
- b) The failure to correct erroneous personal information regarding the Plaintiff after a reasonable request by the Plaintiff;
- c) The failure to remove and/or correct the inaccuracy and derogatory credit information after a reasonable request by the Plaintiff;
- d) The failure to promptly and adequately investigate information which Defendant Experian had notice was inaccurate;
- e) The continual placement of inaccurate information into the credit report of the Plaintiff after being advised by the Plaintiff that the information was inaccurate;

- f) The failure to note in the credit report that the Plaintiff disputed the accuracy of the information;
- g) The failure to promptly delete information that was found to be inaccurate, or could not be verified, or that the source of information had advised Experian to delete;
- h) The failure to take adequate steps to verify information Experian had reason to believe was inaccurate before including it in the credit report of the consumer.

49. As a result of the conduct, action and inaction of Experian, the Plaintiff suffered damage by loss of credit, loss of ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denial.

50. The conduct, action and inaction of Experian was negligent, entitling the Plaintiff to damages under 15 U.S.C. § 1681o.

51. The Plaintiff is entitled to recover reasonable costs and attorney's fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681(n) and 1681o.

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant, Experian, for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

THIRD CAUSE OF ACTION

(Willful Violation of the FCRA as to Equifax)

52. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

53. This is an action for willful violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*,

54. Equifax violated 15 U.S.C. § 1601(e) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit report and credit files that Equifax maintained concerning the Plaintiff.

55. Equifax has willfully and recklessly failed to comply with the Act. The failure of Equifax to comply with the Act include but are not necessarily limited to the following:

- a) The failure to follow reasonable procedures to assure the maximum possible accuracy of the information reported;
- b) The failure to correct erroneous personal information regarding the Plaintiff after a reasonable request by the Plaintiff;
- c) The failure to remove and/or correct the inaccuracy and derogatory credit information after a reasonable request by the Plaintiff;
- d) The failure to promptly and adequately investigate information which Defendant Equifax had notice was inaccurate;
- e) The continual placement of inaccurate information into the credit report of the Plaintiff after being advised by the Plaintiff that the information was inaccurate;
- f) The failure to note in the credit report that the Plaintiff disputed the accuracy of the information;
- g) The failure to promptly delete information that was found to be inaccurate, or could not be verified, or that the source of information had advised Equifax to delete;

h) The failure to take adequate steps to verify information Equifax had reason to believe was inaccurate before including it in the credit report of the consumer.

56. As a result of the conduct, action and inaction of Equifax, the Plaintiff suffered damage by loss of credit, loss of ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denial.

57. The conduct, action and inaction of Equifax was willful rendering Equifax liable for actual, statutory and punitive damages in an amount to be determined by a Judge/ and or Jury pursuant to 15 U.S.C. § 1681(n).

58. The Plaintiff is entitled to recover reasonable costs and attorney's fees from Equifax in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681(n).

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant, Equifax, for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

FOURTH CAUSE OF ACTION

(Negligent Violation of the FCRA as to Equifax)

59. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

60. This is an action for negligent violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*,

61. Equifax violated 15 U.S.C. § 1681i(a) by failing to delete inaccurate information from the credit file of the Plaintiff after receiving actual notice of such inaccuracies and conducting reinvestigation and by failing to maintain reasonable procedures with which to verify the disputed information in the credit file of the Plaintiff.

62. Equifax has negligently failed to comply with the Act. The failure of Equifax to comply with the Act include but are not necessarily limited to the following:

- a) The failure to follow reasonable procedures to assure the maximum possible accuracy of the information reported;
- b) The failure to correct erroneous personal information regarding the Plaintiff after a reasonable request by the Plaintiff;
- c) The failure to remove and/or correct the inaccuracy and derogatory credit information after a reasonable request by the Plaintiff;
- d) The failure to promptly and adequately investigate information which Defendant Equifax had notice was inaccurate;
- e) The continual placement of inaccurate information into the credit report of the Plaintiff after being advised by the Plaintiff that the information was inaccurate;
- f) The failure to note in the credit report that the Plaintiff disputed the accuracy of the information;
- g) The failure to promptly delete information that was found to be inaccurate, or could not be verified, or that the source of information had advised Equifax to delete;
- h) The failure to take adequate steps to verify information Equifax had reason to believe was inaccurate before including it in the credit report of the consumer.

63. As a result of the conduct, action and inaction of Equifax, the Plaintiff suffered damage by loss of credit, loss of ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denial.

64. The conduct, action and inaction of Equifax was negligent, entitling the Plaintiff to damages under 15 U.S.C. § 1681o.

65. The Plaintiff is entitled to recover reasonable costs and attorney's fees from Equifax in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681(n) and 1681o.

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant, Equifax, for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

FIFTH CAUSE OF ACTION

(Willful Violation of the FCRA as to Defendant MB Financial)

66. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

67. This is an action for willful violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*

68. Pursuant to the Act, all person who furnished information to reporting agencies must participate in re-investigations conducted by the agencies when consumers dispute the accuracy and completeness of information contained in a consumer credit report.

69. Pursuant to the Act, a furnisher of disputed information is notified by the reporting agency when the agency receives a notice of dispute from a consumer such as the Plaintiff. The furnisher must then conduct a timely investigation of the disputed information and review all relevant information provided by the agency.

70. The results of the investigation must be reported to the agency and, if the investigation reveals that the original information is incomplete or inaccurate, the information from a

furnisher such as the above listed above must report the results to other agencies which were supplied such information.

71. The Defendant MB Financial violated 15 U.S.C. § 1681s2-b by the publishing of the Account Liability Representation; by failing to fully and improperly investigate the dispute of the Plaintiff with respect to the Account Liability Representation; by failing to review all relevant information regarding same by failing to correctly report results of an accurate investigation to the credit reporting agencies.
72. Specifically, the Defendant MB Financial continued to report this account on the Plaintiff's credit report after being notified of her dispute regarding the incorrect balance.
73. Defendant MB Financial could not have reviewed this dispute, for if they had they would have seen the letter issued to the Plaintiff on this account a few months earlier clearly stating there was no longer a balance.
74. Additionally, the Defendant MB Financial failed to mark the account as disputed after receiving the dispute letter.
75. As a result of the conduct, action and inaction of the Defendant MB Financial, the Plaintiff suffered damage for the loss of credit, loss of the ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denials.
76. The conduct, action and inaction of Defendant MB Financial was willful, rendering Defendant MB Financial liable for actual, statutory and punitive damages in an amount to be determined by a jury pursuant to 15 U.S.C. § 1601(n).

77. The Plaintiff is entitled to recover reasonable costs and attorney's fees from Defendant MB Financial in an amount to be determined by the Court pursuant to 15 U.S.C. § 1601(n).

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant MB Financial for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

SIXTH CAUSE OF ACTION

(Negligent Violation of the FCRA as to Defendant MB Financial)

78. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

79. This is an action for negligent violation of the Fair Credit Reporting Act U.S.C. § 1681 *et seq.*

80. Pursuant to the Act, all person who furnished information to reporting agencies must participate in re-investigations conducted by the agencies when consumers dispute the accuracy and completeness of information contained in a consumer credit report.

81. Pursuant to the Act, a furnisher of disputed information is notified by the reporting agency when the agency receives a notice of dispute from a consumer such as the Plaintiff. The furnisher must then conduct a timely investigation of the disputed information and review all relevant information provided by the agency.

82. The results of the investigation must be reported to the agency and, if the investigation reveals that the original information is incomplete or inaccurate, the information from a

furnisher such as the above named Defendant must report the results to other agencies which were supplied such information.

83. Defendant MB Financial is liable to the Plaintiff for failing to comply with the requirements imposed on furnishers of information pursuant to 15 U.S.C. § 1681s2-b.

84. After receiving the Dispute Notices from Experian, and Equifax, Defendant MB Financial negligently failed to conduct its reinvestigation in good faith.

85. A reasonable investigation would require a furnisher such as Defendant MB Financial to consider and evaluate a specific dispute by the consumer, along with all other facts, evidence and materials provided by the agency to the furnisher.

86. Additionally, the Defendant MB Financial failed to mark the account as disputed after receiving the dispute letter.

87. The conduct, action and inaction of Defendant MB Financial was negligent, entitling the Plaintiff to recover actual damages under 15 U.S.C. § 1681o.

88. As a result of the conduct, action and inaction of the Defendant MB Financial, the Plaintiff suffered damage for the loss of credit, loss of the ability to purchase and benefit from credit, and the mental and emotional pain, anguish, humiliation and embarrassment of credit denials.

89. The Plaintiff is entitled to recover reasonable costs and attorney's fees from the Defendant MB Financial in an amount to be determined by the Court pursuant to 15 U.S.C. § 1601(n) and 1681o.

WHEREFORE, Plaintiff, Aleksandra Berkovich, an individual, demands judgment in her favor against Defendant MB Financial, for damages together with attorney's fees and court costs pursuant to 15 U.S.C. § 1681(n).

DEMAND FOR TRIAL BY JURY

90. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which Plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the each Defendant as follows:

- a) For actual damages provided and pursuant to 15 U.S.C. § 1681o(a) be awarded for each negligent violation as alleged herein;
- b) For actual damages provided and pursuant to 15 U.S.C. § 1640(a)(1);
- c) For Statutory damages provided and pursuant to 15 U.S.C. § 1681n(a);
- d) For Statutory damages provided and pursuant to 15 U.S.C. § 1640(a)(2);
- e) For Punitive damages provided and pursuant to 15 U.S.C. § 1681n(a)(2);
- f) For attorney fees and costs provided and pursuant to 15 U.S.C. § 1681n(a)(3), 15 U.S.C. § 1681o(a)(2) and 15 U.S.C. § 1640(a)(3);
- g) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Dated: Hackensack, New Jersey
January 24, 2019

/s/ Yaakov Saks
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